

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. \_\_\_\_\_

IN RE:	)	
	)	
Application of Duke Power Company LLC	)	
d/b/a Duke Energy Carolinas, LLC	)	
for Approval of an Executory	)	<b><u>APPLICATION</u></b>
Transfer and Sale of Property	)	

Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC (“Applicant” or “Duke Energy Carolinas”), hereby applies to the Public Service Commission of South Carolina (“Commission”) for approval of the executory transfer and sale of certain utility property located in Duke Energy Carolinas’ electric service territory in South Carolina or North Carolina and as more fully described in Exhibit “A” hereto. This Application is made pursuant to Section 58-27-1300, Code of Laws of South Carolina, (1976, as amended) and other applicable Rules, Regulations, and Statutes. In support of this Application, the Applicant shows the Commission the following:

1. Its general offices are at 526 South Church Street, Charlotte, North Carolina, and its mailing address is:

Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC  
526 South Church St.  
P.O. Box 1006/ Mail Code EC03T  
Charlotte, N.C. 28201-1006

2. The name and address of Applicant’s Attorneys are:

Lara Simmons Nichols  
Associate General Counsel  
Duke Energy Carolinas Law Department  
526 South Church St.  
P.O. Box 1006/ Mail Code EC03T  
Charlotte, N.C. 28201-1006

William F. Austin  
Richard L. Whitt  
Austin, Lewis & Rogers, P.A.  
508 Hampton Street  
Columbia, South Carolina 29201  
(803) 251-7442

3. Copies of all pleadings, orders or correspondence in this proceeding should be served upon the attorneys listed above.
4. The Applicant is a public utility engaged in the generation, transmission, distribution, and sale of electric energy in the central and western portion of North Carolina and the western portion of South Carolina and is subject to the jurisdiction of this Commission.
5. On March 14, 2006, Duke Energy Carolinas entered into a "Spare Transformer Sharing Agreement" (hereinafter, "Sharing Agreement") (a copy of which is attached hereto as Exhibit "B") with certain participating electric utilities as part of a national collaborative effort to share spare electric transformers with other electric utilities in the event of a declaration by the federal government of a national emergency as a result of a "coordinated deliberate destruction of [a] utility substation" (e.g. a terrorist attack). As of May 12, 2006, thirty two (32) of the nation's electric utilities have executed this Sharing Agreement (with the expectation that additional parties will join).
6. The Sharing Agreement provides for an electric industry-wide pool of spare electric transformers that can be called upon and transferred from one utility to another utility in the event of a coordinated terrorist attack upon the electric infrastructure in the United States. By entering into this Sharing Agreement, Duke Energy Carolinas will: (a) support the national effort to protect our electric infrastructure from terrorist activities; (b) provide Duke Energy Carolinas and the citizens of South Carolina with a higher level of preparedness in the event of an attack on the electric system; and (c) lower overall future costs to Duke Energy Carolinas and the South Carolina rate payers. Each of these benefits is discussed in more detail below.

7. By entering into the Sharing Agreement, Duke Energy Carolinas will be supporting our national effort to protect our electric infrastructure from terrorist activities. In the latter part of 2004, the Edison Electric Institute (“EEI”) initiated a focus group to examine what steps, if any, that the electric industry should take to better prepare the industry to respond to an unforeseen terrorist attack on the nation’s electric infrastructure. Around the same time, the Federal Energy Regulatory Commission (“FERC”) expressed concerns on the issue of infrastructure protection and initiated a study to determine what steps, if any, needed to be taken by FERC to ensure the electric industry is prepared to respond in the event of such a terrorist attack. In an effort to develop an industry-wide position on the issue and avoid a FERC-mandated solution, the industry, with the help and facilitation of EEI, developed the agreed upon provisions of the Sharing Agreement. EEI and NERC actively participated in the development of the Sharing Agreement, and EEI has taken the lead in promoting and implementing the Sharing Agreement with the various utilities across the country.
8. By entering into the Sharing Agreement, Duke Energy Carolinas will achieve a higher level of preparedness for South Carolinas’ incumbent electric utilities, thereby benefiting Duke Energy Carolinas’ rate payers and all citizens of the state of South Carolina. Duke Energy Carolinas has sufficient spare transformers in its inventory to address unexpected events that may arise from time to time on its system. Nonetheless, certain catastrophic events, such as a coordinated terrorist attack upon the Duke Energy Carolinas electric system, could lead to a situation in which Duke Energy Carolinas would need the assistance of the state and federal government as well as its sister utilities. The electric industry has worked proactively prior to any terrorist event to develop this Sharing Agreement to allow Duke Energy Carolinas and the other signatories the ability to seek help during a national emergency from the other signatory utilities on an expedited basis. Through this Sharing Agreement, Duke Energy Carolinas will have ready access to a pool of spare transformers to help restore power to its customers in an expedited, cost-effective and streamlined manner.

9. By entering into the Sharing Agreement, Duke Energy Carolinas will lower its overall future costs to maintain spare transformers in the Duke Energy Carolinas inventory, thereby benefiting the electric rate payers. Although Duke Energy has taken significant steps to protect its infrastructure from a possible terrorist attack, Duke Energy Carolinas does not believe it would be feasible or economically practical to maintain in its inventory the large number of spare transformers needed to address every 'worst case scenario' for a terrorist attack upon the electric system. This Sharing Agreement will allow Duke Energy Carolinas and its customers to have the added benefits of access to transformers in a national emergency without the added costs and risk of buying and carrying large surpluses of spare transformers in its inventory. Duke Energy Carolinas currently has sufficient spare transformers in its inventory to meet the requirements of the Sharing Agreement and does not anticipate the need to purchase any additional transformers to meet the requirements of the agreement. Moreover, Duke Energy Carolinas will be committing only a portion of its total spare transformers to the sharing pool and anticipates that it will continue to have sufficient transformers remaining in its inventory to maintain safe and reliable operations and to address equipment failures that may arise on the system.
10. Upon the Commission's approval of this Sharing Agreement, Duke Energy Carolinas will necessarily "commit" a portion of its spare transformers to the sharing pool in the event another utility suffers a terrorist attack. By committing the spare Transformers, Duke Energy Carolinas nonetheless will maintain ownership and possession of all of its spare transformers and shall be entitled to use such spares for equipment failures as long as such spares are replaced within eighteen months. Although Duke Energy Carolinas assesses the risk of having to sell a spare electric transformer to a participating electric utility pursuant to the Sharing Agreement to be very low, the possibility of a sale does exist if a terrorist attack were to occur, and the cost of any such sale of a spare electric transformer(s) may well exceed one million dollars, thereby requiring approval

under the applicable state statute, Section 58-27-1300, Code of Laws of South Carolina, (1976, as amended).

11. A “triggering” event under the Sharing Agreement would be (a) a coordinated and deliberate terrorist attack against the system of a participating utility as defined in the Homeland Security Act, and (b) the declaration of a national emergency by the President of the United States pursuant to the National Emergencies Act. Given the defined nature of such triggering event in the Sharing Agreement and the need to implement a response in a timely manner, Duke Energy Carolinas believes that such event would be an exigent circumstance that would not allow Duke Energy Carolinas sufficient time to apply to this Commission for approval and still meet the sharing commitment under the Sharing Agreement in a timely matter. Therefore the relief sought in this Application for approval of an executory transfer and sale of a spare electric transformer(s) is reasonable and prudent and will serve the best interests of Duke Energy Carolinas’ customers and all citizens of South Carolina.
12. The utility property which may be transferred and sold is generically described in Exhibit “A” and attached hereto.
13. Applicant wishes to make the Commission aware of the fact that Cinergy Corp. also executed this Agreement prior to the merger with Duke Energy Corporation. Upon the closing of the merger, the former Cinergy utilities became affiliates of Duke Energy Carolinas; however, the former Cinergy utilities continue to maintain their interests in the Sharing Agreement under separate legal entities from Duke Energy Carolinas and will be participating in this Sharing Agreement within different voltage and equipment classes of transformers (345/230 class, 345/138 class, 230/138 class, and 138/69 class) than Duke Energy Carolinas (500/230 class and 230/115 class). Therefore, there will be no “sharing” of transformers between Duke Energy Carolinas and Duke Energy’s Midwest utilities and there will be no affiliate transactions under this Sharing Agreement.

14. The South Carolina Office of Regulatory Staff (“ORS”) is being served with a copy of this Application.
15. Because the proposed transfer and sale of Utility Property is executory, appropriate bookkeeping entries will be made at the time of any future transfer and sale. The Applicant will immediately provide the proposed bookkeeping entries to ORS for their review and after such review, the bookkeeping entries will be provided to this Commission for its approval.
16. Applicant requests that (i) this Commission inquire into this matter, (ii) if no substantial opposition develops, (iii) this Commission hear and approve this matter at the next appropriate weekly agenda session, (iv) issue an appropriate Order approving the relief sought in the Applicant’s application, and (v) such other and further relief as this Commission may deem just and proper.

WHEREFORE, Applicant prays that based on the foregoing and pursuant to Section 58-27-1300, Code of Laws of South Carolina (1976, as amended) and other applicable Rules, Regulations, and Statutes, that this Commission enter an Order approving the executory transfer and sale of the utility property described in Exhibit "A" hereto, in the manner described hereinabove.

This the 20th day of June, 2006.

/S/ Richard L. Whitt  
William F. Austin  
Richard L. Whitt  
Austin, Lewis & Rogers, P.A.  
508 Hampton Street  
Columbia, South Carolina 29201  
(803) 251-7442

Lara Simmons Nichols  
Associate General Counsel  
Duke Energy Carolinas Law Department  
526 South Church St.  
P.O. Box 1006/ Mail Code EC03T  
Charlotte, NC 28201-1006  
(704)-382-8142

Attorneys for Applicant, Duke Power Company LLC  
d/b/a Duke Energy Carolinas, LLC

Columbia, South Carolina